

Revised for
Second Hearing
December 5, 2006

ORDINANCE NO. 06-24

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA,
AMENDING CHAPTER 90 OF THE CODE OF ORDINANCES
ENTITLED "ADMINISTRATION" BY AMENDING SECTION
90-431 TO ADJUST THE PROCEDURE WHEREBY AN
ADMINISTRATIVE DECISION OF THE CITY BECOMES
RIPE FOR AN APPEAL TO THE BOARD OF ADJUSTMENT
OR THE CITY COMMISSION, AND AMENDING THE
SETTING OF THE DATE FOR THE APPEAL AND ITS
NOTICE; AMENDING SECTION 90-432 CLARIFYING THE
CITY CLERK'S ROLE IN THE PREPARATION OF THE
ORDER ON APPEAL; PROVIDING FOR SEVERABILITY;
PROVIDING FOR REPEAL OF INCONSISTENT
PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Clerk has recommended clarifications to the administrative appeal process embodied in chapter 90 of the Code of Ordinances in order to make the Code of Ordinances reflect standard City practices; and

WHEREAS, the Key West Planning Board at its meeting of September 26, 2006, found the proposed amendments to be consistent with the Key West Comprehensive Plan; and

WHEREAS, the City Commission finds that the proposed amendments to the administrative appeals procedures of the City of Key West would promote the health, safety and welfare of the citizens of Key West.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST, FLORIDA:

Section 1: That Section 90-431 of the Code of Ordinances is hereby amended as follows*:

Sec. 90-431. Procedures for rendering decisions.

In considering and acting upon appeals of final decisions of the planning board, the historic architectural review commission, or the tree commission, as well as final orders and questions of interpretation and enforcement of the land development regulations and the building codes by the city planner and the chief building official, the following procedures shall be observed:

- (1) *Procedure and time limitation for appeal.*

*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

a. An appeal to the city commission or the special magistrate, as the case may be, shall be taken ~~within~~ on or before the tenth ~~ten~~ days, counted consecutively, after the date of the order by the planning board or the historic architectural review commission to which the appeal is directed.

b. An appeal to the board of adjustment shall be taken on or before the tenth ~~ten~~ days, counted consecutively, after the date of the order or the administrative action of the tree commission, chief building official, or the city planner. ~~other administrative official to which the appeal is directed.~~

c. When the order or other administrative action has been mailed to the party, the party may add three (3) days to the prescribed time period for appeal. ~~For purposes of computing the time for filing an appeal, rendition of an order, requirement, decision or determination by the planning board, the historic architectural review commission, the tree commission, the chief building official, or other administrative official shall be the date at which a written, dated and signed instrument expressing such decision is filed with the city clerk. The original and one copy of the notice of appeal, on a form provided by the city clerk, together with all the documents, plans, papers or other materials constituting the record upon which the action appealed from was taken, shall be filed with the city clerk who~~

shall provide copies thereof to the presiding officer of the city commission, the board of adjustment or the special magistrate, as appropriate, and to the city manager and city attorney. Appeals not so filed shall be deemed waived.

(2) *Date of hearing for appeals.* Hearings of appeals by the city commission as well as the board of adjustment or special magistrate shall be held ~~at a date and time fixed by the city manager and shall in no event be less than 30 or more than 60 days~~ at the next regularly scheduled meeting of the city commission, board of adjustment or special magistrate, as the case may be, after the filing of the notice of appeal, unless the parties mutually agree to another date.

(3) *Notice.* Upon notification ~~by the city manager~~ of the date fixed for hearing on any matter subject to this division, the city clerk shall cause notice to be made pursuant to division 2 of article VIII of chapter 90. The city clerk shall also forward by certified mail, return receipt requested, similar notices setting forth the time, place and purpose of the hearing to the following:

- a. The appellant.
- ~~b. The administrative official.~~
- eb. The owner of the property described in the application, if other than the appellant.

* * * *

Section 2: That section 90-432 of the Code of Ordinances is hereby amended as follows:

Sec. 90-432. Decision and order.

Action by the city commission, the board of adjustment or the special ~~master~~ magistrate upon any matter subject to this division shall be announced by the presiding officer immediately following the vote determining such action and shall thereafter be embodied in a written order ~~prepared by the city clerk~~ and executed by the presiding officer and the city clerk. Such written order shall be incorporated into the minutes of the meeting at which such action occurred.

Section 3: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 4: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.


Section 5: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this 21 day of November, 2006.

Read and passed on final reading at a regular meeting held this 5 day of December, 2006.

Authenticated by the presiding officer and Clerk of the Commission on 6 day of December, 2006.

Filed with the Clerk December 6, 2006.


MORGAN MCPHERSON, MAYOR

ATTEST:


CHERYL SMITH, CITY CLERK